

information is made public in the subject company's home jurisdiction, of information regarding all purchases of subject securities and related securities otherwise than pursuant to the tender offer from the time of public announcement of the tender offer until the tender offer expires;

(F) Purchases or arrangements to purchase by an offeror and its affiliates must satisfy the following additional condition: the tender offer price will be increased to match any consideration paid outside of the tender offer that is greater than the tender offer price; and

(G) Purchases or arrangements to purchase by an affiliate of a financial advisor must satisfy the following additional conditions:

(1) The financial advisor and the affiliate maintain and enforce written policies and procedures reasonably designed to prevent the transfer of information among the financial advisor and affiliate that might result in a violation of U.S. federal securities laws and regulations through the establishment of information barriers;

(2) The financial advisor has an affiliate that is registered as a broker or dealer under section 15(a) of the Act (15 U.S.C. 78o(a));

(3) The affiliate has no officers (or persons performing similar functions) or employees (other than clerical, ministerial, or support personnel) in common with the financial advisor that direct, effect, or recommend transactions in the subject securities or related securities who also will be involved in providing the offeror or subject company with financial advisory services or dealer-manager services; and

(4) The purchases or arrangements to purchase are not made to facilitate the tender offer.

(ii) [Reserved]

(c) *Definitions*. For purposes of this section, the term:

(1) *Affiliate* has the same meaning as in § 240.12b-2;

(2) *Agent independent of the issuer* has the same meaning as in § 242.100(b) of this chapter;

(3) *Covered person* means:

(i) The offeror and its affiliates;

(ii) The offeror's dealer-manager and its affiliates;

(iii) Any advisor to any of the persons specified in paragraph (c)(3)(i) and (ii) of this section, whose compensation is dependent on the completion of the offer; and

(iv) Any person acting, directly or indirectly, in concert with any of the persons specified in this paragraph (c)(3) in connection with any purchase or arrangement to purchase any subject securities or any related securities;

(4) *Plan* has the same meaning as in § 242.100(b) of this chapter;

(5) *Public announcement* is any oral or written communication by the offeror or any person authorized to act on the offeror's behalf that is reasonably designed to, or has the effect of, informing the public or security holders in general about the tender offer;

(6) *Related securities* means securities that are immediately convertible into, exchangeable for, or exercisable for subject securities;

(7) *Subject securities* has the same meaning as in § 229.1000 of this chapter; and

(8) *Subject company* has the same meaning as in § 229.1000 of this chapter; and

(9) *Home jurisdiction* has the same meaning as in the Instructions to paragraphs (c) and (d) of § 240.14d-1.

(d) *Exemptive authority*. Upon written application or upon its own motion, the Commission may grant an exemption from the provisions of this section, either unconditionally or on specified terms or conditions, to any transaction or class of transactions or any security or class of security, or any person or class of persons.

[64 FR 61465, Nov. 10, 1999, as amended at 73 FR 60093, Oct. 9, 2008]

§ 240.14e-6 Repurchase offers by certain closed-end registered investment companies.

Sections 240.14e-1 and 240.14e-2 shall not apply to any offer by a closed-end management investment company to repurchase equity securities of which it is the issuer pursuant to § 270.23c-3 of this chapter.

[58 FR 19343, Apr. 14, 1993]